

Honorable Judge Barbara J. Rothstein

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CHONG and MARILYN YIM, KELLY	)	Civil Action No. 2:18-cv-00736-BJR
LYLES, EILEEN, LLC, and RENTAL	)	
HOUSING ASSOCIATION OF	)	
WASHINGTON,	)	<b>STIPULATED MOTION AND ORDER</b>
	)	<b>TO STAY PROCEEDINGS</b>
Plaintiffs,	)	
v.	)	
	)	<b>Noted on Motion Calendar June 7, 2023</b>
THE CITY OF SEATTLE, a Washington	)	
Municipal corporation,	)	
	)	
Defendant.	)	

Pursuant to Local Rule 10(g), the parties to this matter stipulate to, and ask this Court to enter, this order:

**Background.**

The Ninth Circuit's panel decision on appeal in this matter issued on March 21, 2023. No. 21-35567. The Ninth Circuit's order denying the petition and conditional cross-petition for rehearing en banc issued on May 30, 2023. The Ninth Circuit's mandate issued on June 7, 2023.

The Ninth Circuit's panel decision affirmed this Court's summary judgment ruling in part and reversed in part. In affirming, the panel ruled that one provision of the challenged Seattle ordinance is consistent with substantive due process guarantees. In reversing, the panel ruled that

a different ordinance provision violates the First Amendment and remanded this matter to this Court: “Because the Ordinance contains a severability provision, we remand this case to the district court to determine whether the presumption in favor of severability is rebuttable and for other proceedings consistent with this opinion.” Slip op. at 6.

Plaintiffs Yim, et al., intend to file a petition for a writ of certiorari to the Supreme Court of the United States, asking that Court to review the substantive due process issue. That petition is currently due on August 28, 2023.

**Order.**

To prevent this matter from being litigated simultaneously in two forums, further proceedings in this Court are stayed until 28 days after the earliest date on which: (a) no timely petition for certiorari is filed with the Supreme Court; (b) the Supreme Court denies a timely petition for certiorari, or (c) the Supreme Court concludes its review pursuant to Supreme Court Rule 41.

Promptly after the first of those events to occur, and in no event later than December 15, 2023, the parties shall file a status report with this Court, conveying the status of the Supreme Court proceedings and proposing a schedule for further proceedings in this Court.

It is so ordered this 26th day of June, 2023.



UNITED STATES DISTRICT JUDGE

Presented on June 7, 2023, by:

By: s/ BRIAN T. HODGES

Brian T. Hodges, WSBA # 31976  
Pacific Legal Foundation  
10940 Northeast 33rd Place, #429  
Bellevue, Washington 98004  
Tel.: (425) 576-0484  
[BHodges@pacificlegal.org](mailto:BHodges@pacificlegal.org)  
*Attorney for Plaintiffs Yim, et al.*

By: s/ ROGER D. WYNNE

Roger D. Wynne, WSBA #23399  
Seattle City Attorney's Office  
701 Fifth Avenue, Suite 2050  
Seattle, WA 98104  
Tel: (206) 684-8200  
[roger.wynne@seattle.gov](mailto:roger.wynne@seattle.gov)  
*Attorney for the Defendant City of Seattle*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 7, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all counsel of record.

s/ BRIAN T. HODGES

Brian T. Hodges, WSBA # 31976

Attorney for Plaintiffs